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ADMINISTRATIVE - INTERNAL USE ONLY

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22 October 1982

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# ACQUISITION OF FOREIGN AUTOMATIC DATA PROCESSING RESOURCES

Rescission:

1. This notice sets forth policy, responsibilities, and procedures governing the acquisition of foreign automatic data processing (ADP) resources.

2. This notice is promulgated pursuant to the authority contained in paragraph 102c(3)(d) of the National Security Act of 1947, as amended, which provides that the "Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

3. The growing presence of foreign ownership, control, and influence in the development, production, and marketing of high technology ADP resources poses a threat to the security of the Agency's ADP activities. Dependence on a foreign source could result in a denial of service or a modification which might result in the unauthorized disclosure of intelligence sources or methods. It is essential that controls on the acquisition of these products and services be established in order to minimize or eliminate this threat.

4. Listed below are definitions pertinent to this subject:

a. ADP resource is any electronic or electromechanical system or subsystem used for the purpose of processing or storing information and the associated software, support, and services.

b. Foreign ADP resource includes:

(1) Any ADP system, subsystem, or software developed, manufactured, or assembled on foreign soil or produced by an organization or entity that is under foreign ownership, control, or influence.

(2) Any support or service provided by a foreign national or a firm under foreign ownership, control, or influence.

c. Foreign ownership, control, or influence is that which results from direct or indirect beneficial ownership of 5 percent of any firm, corporation, or entity, foreign national representation on a board of directors, or the encumbrance of an influential position in corporate management.

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5. It is Agency policy not to procure foreign ADP resources except as provided for by procedures established in this notice. In furtherance of this policy, all Agency procurement actions for ADP resources will contain the following:

"FOREIGN SOURCES, SUPPLIES AND SERVICES REQUIREMENT

"You are hereby advised that with respect to this acquisition, it is the United States Government's desire to procure only domestic equipment and/or services (as defined below) and to utilize foreign sources, supplies, equipment or services only when determined to be necessary and in the best interest of the Government. Accordingly, all proposals must identify the location of manufacturer or assembly of any product, item or equipment, or component part thereof, which are submitted for consideration under this request. If the performance of services is required, your proposal must disclose the location of your business, and the nationality and citizenship of all individuals who may be called upon to perform such services. All proposals shall also identify state of incorporation or principal place of business, and the specific degree of any known or suspected foreign interest.

"If you elect to offer foreign source equipment or services, you should identify the extent to which the product or services do not conform to requirements stated above.

"The United States Government reserves the right to waive the domestic purchase requirement as it may be necessary in the interest of the Government.

"DEFINITIONS APPLICABLE TO THIS CLAUSE ARE AS FOLLOWS:

"A. Foreign ADP resource includes:

"1. Any ADP system, subsystem or software developed, manufactured or assembled on foreign soil or produced by an organization or entity that is under foreign ownership, control or influence.

"2. Any support or service provided by a foreign national or a firm under foreign ownership, control or influence.

"B. Foreign ownership, control or influence is that which results from direct or indirect beneficial ownership of five percent of any firm, corporation or entity, foreign national representation on a Board of Directors or the encumbrance of an influential position in corporate management."

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6. Listed below are procedures to be followed:

a. Requests for the procurement of foreign ADP resources or the exclusion of the foreign ADP resource clause from a procurement action must be approved by the Director of Logistics with the concurrence of the Director of Security or their designees. The request will be prepared by the program office and forwarded to the contracting officer with the procurement documentation.

b. The request will set forth fully the justification for an exception and include, at a minimum, the following:

(1) The necessity to acquire or utilize foreign ADP resources.

(2) A general statement of why U.S. firms cannot or should not provide the ADP resources.

(3) A general statement of the security risks inherent in such a procurement and the measures, if any, to be taken by the program office to minimize the risks.

(4) A general statement on the TEMPEST hazard, if any. This information may be obtained from the Office of Communications, Communications Security Division, secure

c. The contracting officer will present the exception request to the Agency Contract Review Board for recommendation prior to seeking approval.

7. Exceptions to the policy of not acquiring or utilizing foreign ADP resources will be warranted only when technical, operational, or mission considerations necessitate such action. In accordance with this principle, requests for an exception will be considered when:

a. Overriding technical operational or administrative requirements support such a procurement.

b. The procurement of the system does not pose an unacceptable risk to security.

c. The system is composed primarily of U.S.-assembled ADP systems and subsystems, serviced and supported by U.S. nationals, and any foreign content is limited to:

(1) A critical system or subsystem acquired from a foreign manufacturer as a nondedicated stock item requiring no direct support or service from the foreign manufacturer and a U.S.-owned support organization exists such that interaction with a foreign manufacturer will not be required throughout the life of the system.

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(2) A noncritical system or subsystem of limited complexity.

d. The foreign ADP resource will be permanently dedicated to unclassified or nonsensitive applications.

8. Notwithstanding the provisions of this notice, the Director of Central Intelligence or his designee may at his discretion waive the provisions of this notice wherever he deems such waiver necessary or advisable in the interests of the United States.

Harry E. Fitzwater  
Deputy Director  
for  
Administration

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